# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**STATE OF MISSOURI** 

RESPONDENT,

v. ANGELINA REYNOLDS

APPELLANT.

## DOCKET NUMBER WD73306

DATE: March 6, 2012

Appeal From:

Clay County Circuit Court The Honorable Donald T. Norris, Judge

Appellate Judges:

Division One: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Karen King Mitchell, Judge

Attorneys:

Wesley M. Rogers and Stephanie N. Steele, Liberty, MO, for respondent.

LaDarron D. Williams, Kansas City, MO, for appellant.

#### MISSOURI APPELLATE COURT OPINION SUMMARY

# MISSOURI COURT OF APPEALS WESTERN DISTRICT

STATE OF MISSOURI,

RESPONDENT,

v. ANGELINA REYNOLDS,

APPELLANT.

No. WD73306

Clay County

Before Division One: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Karen King Mitchell, Judge

Angelina Reynolds appeals from her conviction following a jury trial of the class A misdemeanor of fraudulently stopping payment of an instrument seeking plain error review of a statute of limitations defense.

### Affirm

- (1) Plain error review is not available to claim error in the trial court's failure to dismiss charges a defendant claims were barred by the statute of limitations. The statute of limitations is an affirmative defense, and Reynolds's failure to raise the defense until her post-trial motion for new trial constitutes a waiver of the defense.
- (2) In any event, there is no merit to Reynolds's claim of error. The State filed an amended information without objection on the morning of trial which described the time frame for commission of the offense with which Reynolds was charged which fell, in part, within the applicable statute of limitations. An essential element of the class A misdemeanor of fraudulently stopping payment of an instrument is stopping payment. The uncontested evidence showed that Reynolds stopped payment of an instrument on a date that fell within the applicable statute of limitations. Until that moment, Reynolds had not committed the crime with which she was charged. The State's prosecution of her, therefore, did not fall outside the applicable statute of limitations.
- (3) Reynolds's claim of ineffective assistance of counsel is not cognizable. Claims for ineffective assistance of counsel following a guilty plea to, or conviction of, a misdemeanor cannot be raised under Rules 24.035 or 29.15, but also cannot be asserted on direct appeal. Reynolds's remedy, if any, for ineffective assistance of counsel in her misdemeanor case is by habeas corpus.

Opinion by Cynthia L. Martin, Judge

March 6, 2012

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